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April 18, 2013

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To: Supervisor Mark Ridley-Thomas, Chairman
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From: William T Fujioka
Chief Executive Officer

REVIEW OF THE COUNTY'S ADOPTED POLICIES REGARDING THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

This report is in response to: 1) the Board's directive of December 11, 2012, to convene a California Environmental Quality Act (CEQA) working group comprised of representatives from each Board office including planning, environmental and land use deputies and representatives from County Counsel, the Department of Public Works, and the Department of Regional Planning; and 2) a January 15, 2013 motion by Chairman Mark Ridley-Thomas directing the Chief Executive Officer to review and carefully craft language for the County's State Legislative Agenda to support legislation that amends CEQA to reduce unnecessary restrictions and judicial barriers to locally approved projects (Item No. 38, Agenda of January 15, 2013).

CEQA-Related Legislation

As part of the 2013-14 Legislative Session, a number of CEQA-related bills were introduced prior to the bill introduction deadline. The bills range from proposals to modernize and streamline the CEQA process to efforts to improve and strengthen the Act's provisions. While some of the bills contain specific bill language, many of the bills are "spot bills" or "intent bills" which serve as placeholders for later amendments. Most notably, SB 731 (Steinberg), as introduced on February 22, 2013, states the Legislature's intent to enact legislation revising CEQA to provide greater certainty for smart infill development, streamline the law for specified projects, and establish a threshold of significance for specified impacts. It is anticipated that SB 731 by Senate President Pro Tempore Darrell Steinberg is a placeholder for future amendments and will be used as the vehicle through which CEQA reform will be addressed.

For your reference, attached is a list of CEQA-related bills introduced during the first year of the Legislative Session.

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County's Current Policy Platform

As previously reported, this office initiated a review of the County's current policy platform as it relates to CEQA. The County's 2013-14 Legislative Agenda has five policies related to CEQA, all of which address either air quality or land use planning issues. Generally, these policies state that the County will: 1) oppose legislation which would provide broad and categorical CEQA exemptions; 2) support legislation which would provide public projects expedited judicial and administrative review procedures under CEQA; 3) support legislation which would provide narrow and tailored exemptions for essential public projects or projects that provide vital public services; 4) support legislation that would preserve the County's flexibility in making CEQA determinations as they relate to State's greenhouse gas emissions reduction efforts; and 5) support legislation that provides urban counties with the same authority that cities have under current law to exempt infill projects from CEQA.

CEQA Working Group Efforts

The CEQA working group was tasked with reviewing the County's current legislative platform as it relates to CEQA and with determining how potential CEQA reform efforts by the Legislature in 2013 may impact the County. The working group, which met several times over the last four months, discussed a number of recommendations of how CEQA can be streamlined and which administrative processes are essential to ensure the County's interests through the CEQA regulatory processes are protected. The working group also discussed potential reform proposals (either similar to the 2012 CEQA modernization effort or new proposals being circulated by other stakeholder groups) to determine which ideas might merit consideration for inclusion in the County's Legislative Agenda.

However, in the midst of the CEQA working group's discussions, Senator Michael Rubio, who was named the chair of the Senate Environmental Quality Committee and was tasked with overseeing the Legislature's efforts to reform CEQA, resigned on February 22, 2013, making it unclear how the issue will proceed in the coming year. Additionally, on April 16, 2013, Governor Brown announced that while he is committed to relaxing some provisions of the law, other priorities, including the State Budget, water infrastructure and high-speed rail, as well as opposition to CEQA reform efforts by some Democrats, would make it very difficult to get the Legislature to act on CEQA reform in the current year.

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Conclusion

Given the wide range of proposals introduced for the first year of the two-year session, the lack of specific statutory language in many of the bills introduced, and the uncertainty about whether CEQA reform will be taken up this year, **the CEQA working group recommends that rather than present new policy recommendations to the Board at this time, this office, the departments of Regional Planning, Public Works and County Counsel will continue monitoring all CEQA-related legislative efforts and will present advocacy positions on individual bills for Board policy determination on a case-by-case basis.**

Unless otherwise instructed by the Board, this office will continue to work with the aforementioned departments to review all CEQA-related bills, provide analysis of each bill's potential impact on the County's land use and regulatory responsibilities, and make recommendations as necessary for the Board's consideration.

WTF:RA
MR:AO:ma

Attachment

c: Executive Office, Board of Supervisors
 County Counsel
 Department of Regional Planning
 Department of Public Works

CEQA Bills Introduced in 2013

Bill	Summary and Status
AB 37 Perea (D)	<p>Environmental Quality Act: Record of Proceedings Requires, for specified projects or upon the request of a project applicant and the consent of the lead agency that the lead agency prepare a record of proceedings concurrently with the preparation of negative declarations, mitigated negative declarations, EIR's, or other environmental documents for specified projects.</p> <p><i>Status: Assembly Appropriations Committee</i></p>
AB 52 Gatto (D)	<p>Native Americans: California Environmental Quality Act Requires a lead agency to make best efforts to avoid, preserve, and protect specified Native American resources with a project that may have a significant effect on the environment. Requires the agency to take specified actions if the project may adversely affect tribal cultural resources, a reservation or rancheria. Requires the revision of guidelines to include criteria for determining whether a proposed project has a significant effect on the environmental to include effects on tribal cultural resources.</p> <p><i>Status: Assembly Appropriations Committee</i></p>
AB 277 Hall (D)	<p>Tribal Gaming: Compact Ratification Ratifies the tribal-state gaming compact entered into between the State and the North Fork Rancheria Band of Mono Indians, executed on a specified date. Ratifies the tribal-gaming compact entered into between the State and the Wiyot Tribe, executed on a specified date. Provides that, in deference to tribal sovereignty, certain actions are not projects for purposes of the California Environmental Quality Act.</p> <p><i>Status: Assembly Governmental Organization Committee</i></p>
AB 380 Dickinson (D)	<p>California Environmental Quality Act: Notice Amends the California Environmental Quality Act. Requires that notices regarding environmental impact reports filed by lead agencies need to be filed with the Office of Planning and Research and the county clerk and posted by that clerk for public review. Provides additional duties regarding that notice by the Office and the county clerk. Provides notice requirements for projects that are determined to be exempted from the Act.</p> <p><i>Status: Assembly Local Government Committee - 05/01/2013</i></p>
AB 417 Frazier (D)	<p>California Environmental Quality Act Exempts from the California Environmental Quality Act a bicycle transportation plan for an urbanized area. Requires a local agency that determines that the bicycle transportation plan is exempt under this provision and approves or determines to carry out that project, to file notice of the determination with the Office of Planning and Research and the county clerk. Requires the Office of Planning and Research to post specified information on its Internet Web site.</p> <p><i>Status: Assembly Appropriations Committee - 04/17/2013</i></p>
AB 515 Dickinson (D)	<p>California Environmental Quality Act: Judicial Review Establishes a CEQA Compliance Division of the Superior Court in a county in which the Attorney General maintains an office. Provides the division with original jurisdiction over actions of proceedings brought pursuant to the CEQA and matters related to land use and environmental laws. Provides decisions of the division may be reviewed by way of a petition for an extraordinary writ. Provides the contents of a writ if a public</p>

Bill	Summary and Status
	<p>agency is found to be in error and what action the agency must take to comply.</p> <p><i>Status: Assembly Judiciary Committee - 04/23/2013</i></p>
<p>AB 543 Campos (D)</p>	<p>California Environmental Quality Act: Translation Requires a lead agency to translate certain notices required by the California Environmental Quality Act and a summary of any negative declaration, mitigated negative declaration, or environmental impact report, when the impacted community has a substantial number of non-English-speaking people.</p> <p><i>Status: Assembly Natural Resources Committee - 04/29/2013</i></p>
<p>AB 756 Melendez (R)</p>	<p>Environmental Quality Act: Court Review: Public Works Applies the provisions of the California Environmental Quality Act and the Jobs and Economic Improvement Through Environmental Leadership Act of 2011 to a public works project, defined to mean an infrastructure project carried out by the city, county, special district, or state government or contracted out to a private entity by the special district or local or state government.</p> <p><i>Status: Assembly Judiciary Committee - 04/23/2013</i></p>
<p>AB 794 Gorell (R)</p>	<p>Environmental Quality: Use of Landfill & Organic Waste Exempts from the requirements of the California Environmental Quality Act a project that takes landfill materials or organic waste and converts then into renewable green energy if the lead agency finds that the project will result in a net reduction in greenhouse gas emissions or support sustainable agriculture. Exempts from the requirements of the act a project that uses biological processes to convert organic waste streams into nonchemical soil fertility products.</p> <p><i>Status: Assembly Natural Resources Committee</i></p>
<p>AB 823 Eggman (D)</p>	<p>Environment: Farmland Protection Act Enacts the Farmland Protection Act. Requires that an applicant for a defined project that involves the conversion of agricultural land to a permanent or long-term nonagricultural use, including a residential, commercial, civic, industrial, infrastructure, or other similar use, mitigate the identified environmental impacts associated with the conversion of those lands through the permanent protection and conservation of land suitable for agricultural uses. Requires certain criteria for specified lands.</p> <p><i>Status: Assembly Agriculture Committee</i></p>
<p>AB 930 Hall (D)</p>	<p>Enterprise Zones: Energy Management Plans Amends the Enterprise Zone Act to authorize a city, county, or city and county to develop energy management plans with an electrical corporation, gas corporation, local publicly owned electric utility, or rural electric cooperative, serving an enterprise zone other than an enterprise zone within a harbor or port district. Promotes economic development, to increase new business, and to retain existing businesses in that enterprise zone.</p> <p><i>Status: Assembly Natural Resources Committee</i></p>
<p>AB 953 Ammiano (D)</p>	<p>California Environmental Quality Act Amends the California Environmental Quality Act, which defines environment and significant effect on the environment for certain purposes. Revises those definitions. Requires a lead agency to include in an environmental assessment report, a detailed statement on any effects that may result in the locating a proposed project near natural</p>

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	<p>hazards or adverse environmental conditions.</p> <p><i>Status: Assembly Appropriations Committee</i></p>
AB 1060 Fox (D)	<p>Environmental Quality: Filing Fees: Exemptions Exempts from the filing fees imposed on projects that are subject to the California Environmental Quality Act, a project being carried out or implemented by a branch of the United States Armed Forces.</p> <p><i>Status: Assembly Appropriations Committee</i></p>
AB 1267 Hall (D)	<p>Tribal Gaming: Compact Ratification Ratifies the amendment to the tribal-state gaming compact entered into between the State of California and Shingle Springs Band of Miwok Indians, executed on November 15, 2012. Creates the Shingle Springs Band of Miwok Indians Trust Fund in the State Treasury as a special purpose trust fund.</p> <p><i>Status: Assembly Governmental Organization Committee</i></p>
AB 1302 Hagman (R)	<p>Sustainable Environmental Protection Act Enacts the Sustainable Environmental Protection Act. Specifies the environmental review required pursuant to the CEQA for projects related to specified environmental topic areas. Prohibits certain causes of action. Provides that the act would only apply if the lead agency or project applicant has agreed to provide to the public in a readily accessible electronic format an annual compliance report prepared pursuant to the mitigation monitoring and reporting program.</p> <p><i>Status: Assembly Natural Resources Committee - 04/29/2013</i></p>
SB 123 Corbett (D)	<p>Environmental and Land-Use Court Requires the Judicial Council to direct the creation of an environmental and land-use division within 2 or more Superior courts within each of the appellate districts of the state to process civil proceedings brought pursuant to the California Environmental Quality Act or in specified subject areas, including air quality, biological resources, climate change, hazards and hazardous materials, land use planning, and water quality.</p> <p><i>Status: Senate Judiciary Committee - 04/16/2013</i></p>
SB 167 Gaines T (R)	<p>California Environmental Quality Act Makes technical, nonsubstantive changes to provisions of the California Environmental Quality Act that requires a lead agency to prepare an environmental impact report on a project that it proposes to carry out that may have a significant effect on the environment.</p> <p><i>Status: Senate Rules Committee</i></p>
SB 359 Corbett (D)	<p>Environment: CEQA Exemption: Housing Projects Amends provisions of the California Environmental Quality Act which exempt from the Act's requirements residential infill projects meeting specified criteria. Exempts as residential a use consisting of residential units and neighborhood-serving goods, services, or retail uses that do not exceed a specified percent of the total building square footage of the project.</p> <p><i>Status: Senate Environmental Quality Committee - 05/01/2013</i></p>

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SB 436 Jackson (D)	<p>California Environmental Quality Act: Notice Relates to the California Environmental Quality Act. Requires a lead agency to conduct at least one public scoping meeting for the specified projects and to provide notice to the specified entities of at least one public scoping meeting. Revises the meeting notice requirements to requires the notice be given to a list of specified parties including the State Clearinghouse and project applicants.</p> <p><i>Status: Senate Environmental Quality Committee - 05/01/2013</i></p>
SB 525 Galgiani (D)	<p>California Environmental Quality Act: Exemptions Provides that a project by the San Joaquin Regional Rail Commission and the High-Speed Rail Authority to improve the existing tracks, structure, bridges, signaling systems, and associated appurtenances located on the existing railroad right-of-way used by the Altamont Commuter Express service qualifies for an exemption from CEQA.</p> <p><i>Status: Senate Environmental Quality Committee - 05/01/2013</i></p>
SB 617 Evans (D)	<p>California Environmental Quality Act Amends various provisions of the California Environmental Quality Act. Requires that notices regarding environmental impact reports filed by lead agencies need to be filed with the Office of Planning and Research and the county clerk and posted by that clerk for public review. Provides additional duties regarding notices by the Office and the clerk. Requires a statement in the report regarding the placement of the project near natural hazards or adverse environment conditions. Repeals specified exemptions.</p> <p><i>Status: Senate Environmental Quality Committee - 05/01/2013</i></p>
SB 633 Pavley (D)	<p>CEQA Amends the California Environmental Quality Act that requires the submission of a subsequent or supplemental environmental impact report when new information which was not known and could not have been known at the time of the original report was certified as complete, becomes available. Requires the new information that becomes available was not known and could not have been known by the lead agency or any responsible agency at the time the report was certified as complete. Relates to exemptions.</p> <p><i>Status: Senate Environmental Quality Committee - 05/01/2013</i></p>
SB 731 Steinberg (D)	<p>Environment: California Environmental Quality Act State the intent of the Legislature to enact legislation revising the California Environmental Quality Act to, among other things, provide greater certainty for smart infill development. States the intent of the Legislature to provide funds annually to the Strategic Growth Council for the purposes of providing planning incentive grants to local and regional agencies to update and implement general plans.</p> <p><i>Status: Senate Rules Committee</i></p>
SB 739 Calderon R (D)	<p>Environmental Quality Makes a technical, nonsubstantive change to the definition of local agency for the purposes of the California Environmental Quality Act.</p> <p><i>Status: Senate Rules Committee</i></p>
SB 754 Evans (D)	<p>Environmental Quality Act Makes various technical, nonsubstantive changes in certain provisions governing</p>

Bill	Summary and Status
	<p>exemptions from CEQA.</p> <p><i>Status: Senate Rules Committee</i></p>
<p>SB 787 Berryhill T (R)</p>	<p>Environmental Quality: Sustainable Protection</p> <p>Enacts the Sustainable Environmental Protection Act. Specifies the environmental review required pursuant for projects related to specified environmental topical areas. Prohibits certain causes of action. Provides that the Act only applies if a lead agency or project applicant has agreed to provide to the public an annual compliance report.</p> <p><i>Status: Senate Environmental Quality Committee - 05/01/2013</i></p>